

**UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

ANTHONY WILSON KINGSBERRY,	)	
	)	
Movant,	)	
	)	Case No. 16-04166-CV-C-BP
vs.	)	Crim. No. 93-04009-01-CR-C-BP
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**ORDER DISMISSING CASE WITHOUT PREJUDICE**

Movant, who currently is confined at the USP Hazelton in Bruceton Mills, West Virginia, has filed a motion to vacate, set aside, or correct his sentence in the above-numbered criminal case pursuant to 28 U.S.C. § 2255. As set forth in Respondent’s response, Movant has filed a previous motion pursuant to 28 U.S.C. § 2255, *see \ Kingsberry v. United States*, No. 97-4115-CV-W-SOW (W.D. Mo. 1997),<sup>1</sup> which was denied as without merit. In the present case, Movant argues that he is entitled to relief pursuant to the United States Supreme Court’s decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015). Doc. 1.<sup>2</sup>

Before the district court may consider a second or successive motion for relief under Section 2255, the prisoner “shall move in the appropriate court of appeals for an order authorizing the district court to consider the [motion].” 28 U.S.C. § 2244(b)(3)(A); *see also* 2255(h)(1) and (2). Because Movant has not obtained the required authorization from the United States Court of Appeals for the Eighth Circuit, this case must be dismissed, without prejudice, for lack of jurisdiction.

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<sup>1</sup> Respondent lists three other Section 2255 motions filed by Movant that have been denied as successive. Doc. 11, pp. 3-4.

<sup>2</sup> Although counsel initially was appointed to represent Movant, counsel was permitted to withdraw after reviewing Movant’s case and finding that Movant is not entitled to relief under *Johnson*. Docs. 2, 3, 5.

Accordingly, it is **ORDERED** that:

(1) Movant's motion for an extension of time to file a reply (Doc. 13) is denied as moot; and

(2) this case is dismissed, without prejudice, for lack of jurisdiction pursuant to 28 U.S.C. § 2244(b)(3)(A) and 28 U.S.C. § 2255.

/s/ Beth Phillips \_\_\_\_\_  
BETH PHILLIPS  
UNITED STATES DISTRICT JUDGE

Kansas City, Missouri,

Dated: November 2, 2016.